

VILLAGE OF PENINSULA, OHIO

ORDINANCE NO.: 18-2019

INTRODUCED BY: Councilperson Weigand

DATE PASSED: September 9, 2019

AN ORDINANCE ESTABLISHING CHAPTERS 741 AND 185 OF THE CODIFIED ORDINANCES RELATING TO SHORT-TERM RENTAL REGULATIONS AND AN EXCISE TAX ON SHORT-TERM RENTALS

WHEREAS, Council desires to enact the within regulations and excise tax on short-term rentals in the Village in order to balance the competing goals of preserving and protecting the small town residential character of the Village and integrity of residential neighborhoods and the Village's need to maintain its tax base, while allowing property owners to receive remuneration for renting all or part of their dwellings to assist them with maintaining the condition of their dwellings.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Peninsula, Summit County, Ohio, to wit:

SECTION 1. Council hereby establishes Chapters 741 and 185 of the Codified Ordinances relating to Short-Term Rental regulations and an excise tax on Short-Term Rentals as set forth in the attachment to this legislation.

SECTION 2. All formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and all deliberations of this Council or any of its committees that resulted in such formal action were taken in meetings open to the public and/or in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance shall take effect and be in force as of the earliest date permitted by law.

SECTION 4. Effective Date. This Ordinance shall take effect on the 9 day of September, 2019.

IN WITNESS WHEREOF, we have hereunto set our hands this 9 day of September, 2019.


Passed:

Douglas G. Mayer
Douglas G. Mayer, Mayor

Attest:

Deborah Wordell
Deborah Wordell, Fiscal Officer

Approved as to Legal Form.



Bradric T. Bryan, Solicitor

I, Deborah Wordell, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, do hereby certify that the foregoing Ordinance was duly passed by the Council of the Village of Peninsula, at a meeting held on the _____ day of _____, 2019.



Deborah Wordell, Fiscal Officer

Posting Certificate

I, Deborah Wordell, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, hereby certify that there is no newspaper published in the Municipality, and publication of the foregoing Ordinance was made by posting true and accurate copies thereof at five of the most public places in the Village as previously determined by Council, each for a period of at least fifteen days, commencing on the _____ day of _____, 2019, as follows:

1. Terry Lumber & Supply;
2. Valley Fire District;
3. Peninsula Library & Historical Society;
4. Peninsula Village Hall Lobby; and
5. Peninsula Post Office.



Deborah Wordell, Fiscal Officer

CHAPTER 741 SHORT-TERM RENTAL REGULATIONS

741.01 PURPOSE AND INTENT.

(a) This Chapter is intended to protect and promote the health, safety, and general welfare of all of the citizens of Village of Peninsula and preserve the small-town character of the Village by requiring the registration and certification of short-term rentals within the Village. It is also the intent of this chapter to protect the integrity of the residential neighborhoods while allowing property owners to receive remuneration from renting a dwelling or portions of a dwelling to help maintain the dwelling.

(b) Short-term rentals shall be limited as set forth in this chapter in the R-1 Rural Residential District, R-2 "Small Town" Residential District, the C Commercial District, and the MU Mixed Use District within the Village. The purpose of this chapter is to regulate and limit short term rentals in order to:

(1) Establish minimum standards and conditions for Short-term Home rentals and Owner-occupied Short-term rentals that reflect the goals and policies of the Long Range Plan and the Planning and Zoning Code;

(2) Reinforce the purpose of the R-1 Rural Residential District by retaining a rural living environment in the district, maintaining suitable neighborhoods for families and children, and discouraging uses that would generate traffic on local streets in excess of normal traffic generated by the neighborhood; and

(3) Acknowledge that the R-2 "Small Town" Residential District is intended to be more eclectic in its design, character, and size of housing, resulting in varied neighborhoods in close proximity to commercial and tourist attractions, while controlling the density of short-term rentals, preventing congestion on public streets, and reducing hazards to life and property.

741.02 DEFINITIONS.

Caretaker. A caretaker is an individual, other than the certificate holder, who is responsible for the oversight and care of the short-term rental.

Certificate. A short term rental certificate duly issued by the Village.

Owner-Occupied Short-Term Rental. A rental for less than thirty (30) consecutive days in which the owner is concurrently, personally occupying the premises with the renter. One or more renters may occupy a single room or multiple rooms in the main dwelling unit or an accessory building provided the accessory building has separate bathroom facilities and meets health and safety standards.

Parking Space. For purposes of this chapter, a parking space shall be a minimum of 9 feet by 18 feet, located off-street, outside of a road right-of-way, and in one of the following locations on the same lot as the short term rental:

- in a garage or carport;

- within a paved or gravel driveway; or
- within a paved or gravel parking pad.

Renter. As used in this Chapter, a renter is an occupant or renter of a short-term rental pursuant to a rental agreement. The term “renter”, as used herein, does not include guests of the occupant or renters who are visiting between the hours of 7:00 a.m. and 11:00 p.m., provided the total number of visiting guests does not exceed the total number of renters permitted by the certificate.

Septic System Operations Permit. As used in this chapter, septic system operations permit means a valid permit issued by Summit County Public Health for the on-site septic system.

Short-term Home Rental. For purposes of this chapter, Short-term Home rental means any dwelling that is rented in its entirety for less than thirty (30) consecutive days by persons other than the owner from which the owner receives monetary compensation and the owner is not present and personally living on the premises during the time of the rental.

Special Event. In association with a short-term rental, special event means a wedding, party, family reunion, or similar gathering that exceeds the maximum number of occupants allowed under the short-term rental certificate.

741.03 APPLICABILITY.

(a) This chapter applies to all residential dwellings and owners of those dwellings wherein the entire dwelling or portion of a dwelling is rented for a period of less than 30 days.

(1) Certificate Required. A certificate is required prior to the rental of any dwelling or portion of any dwelling for a period of less than 30 days.

A. A certificate issued by the Village shall be valid for a period of one (1) year, beginning January to December of each year, or until the dwelling is sold.

B. A certificate will be issued within 30 days of receipt of a complete application, provided the information on the application is accurate and is verified by an inspection of the property by the Village.

C. The certificate shall indicate the maximum number of guests that can be accommodated at the rental in accordance with the standards listed in 741.04 of this chapter.

D. A certificate and certificate holder shall be subject to all of the standards and penalties of this Chapter.

(2) Application. An application provided by the Village for a short-term rental certificate shall, at a minimum, include the following:

- A. Address of property.
- B. Property owner name(s). If the owner does not reside within a

thirty (30) minute drive time of the Short-term Home rental property, they shall designate a caretaker that meets the thirty (30) minute drive time requirement.

- C. Signature of property owner(s) and caretaker, if any.
- D. Number of bedrooms in the dwelling. For Owner-occupied Short-term rentals, the number of available rooms to be rented.
- E. Number of parking spaces as defined under 741.02.
- F. Sketch of the property, indicating location of the dwelling, driveway, or other point of access, and designated parking spaces meeting the definition of a parking space under 741.02.
- G. Contact information including: name, address, and 24-hour contact phone number for the owner of the property and the caretaker.
 - 1. This information must be kept up to date in the Village's records.
 - 2. It is the certificate holder's responsibility to inform the Village of any change in caretaker or contact information for the certificate holder or caretaker.
- H. Proof of insurance as required by 741.04.
- I. Proof of a valid Operations Permit for the septic system.

(3) Renewal of Certificates.

- A. All certificates for both Owner-occupied and Short-term Home Rentals shall be renewed annually. No rental shall occur until the rental certificate is renewed. The fee for each certificate shall not be prorated should a partial year permit be requested.
- B. Renewal applications shall contain the same information as required for the initial application.
- C. Short-term Home Rental certificate holders shall be required to provide evidence that their rental has been occupied for a minimum of ninety (90) days in the previous calendar year to be permitted to renew their certificate.

741.04 STANDARDS.

(a) Short-Term Home Rental Standards.
All Short-term Home rentals shall be subject to the following standards, in addition to the requirements set forth in 741.05 and 741.06 of this Chapter.

- (1) Parking. Parking for guests in a Short-term Home rental shall only be in identified parking spaces as defined in this chapter. No on-street parking shall be permitted in association with a short-term rental. A minimum of one (1) parking space

per bedroom shall be provided, plus one (1) additional space. The maximum number of spaces shall not exceed two (2) per bedroom. If the Short-term Home rental location cannot meet the requirement of one (1) per bedroom, the applicant shall indicate the number of spaces provided and restrict guests to that number of vehicles.

(2) Accessory Buildings. No Short-term Home renters shall be permitted to sleep in any accessory building to the primary building on the site. Nor shall sleeping be permitted outside or in tents, campers, or other similar temporary structures outside of the main dwelling.

(3) Trash. Refuse and recyclables shall be stored in appropriate containers with tight-fitting lids and shall be regularly picked up by a licensed waste hauler.

(4) Safety Standards. The Short-term Home rental owner shall provide an affidavit stating the short-term rental is in compliance with all applicable local, state, and federal laws and regulations.

(5) Special Events. Special events, as defined in this chapter, are not permitted.

(6) Capacity Limit. The maximum number of renters to be accommodated shall be equal to the number of bedrooms multiplied by a factor of 2.

A. The number of bedrooms shall be as certified by the applicant and verified by inspection of the Village and in no event shall exceed the number of bedrooms permitted by the Summit County Public Health Septic System Operations Permit.

B. The certificate issued by the Village shall indicate the maximum number of renters that may be accommodated as calculated under these standards.

(7) Contact. The certificate holder, or a caretaker representing the property owner, must be available by telephone at all times and be physically located within a thirty (30) minute drive time of the property in the event of an emergency or an issue that requires immediate attention.

(8) Certificate Number. The unique Short-term Home rental certificate number issued by the Village shall be:

A. Included in any advertisement for the rental; and

B. Posted on the property.

(9) Quiet Hours. Short-term Home rentals shall observe quiet hours between 10:00 p.m. and 7:00 a.m.

(10) Pets. Pets shall be secured on the premises or on a leash at all times.

(11) Applicable Rules. Renters shall be made aware of the rules applicable to the renters under this Chapter.

(12) Signs. Signs shall conform to the requirements of Chapter 1133 of the Village of Peninsula Zoning Ordinance.

(13) Insurance. A general liability insurance policy or certificate that shall provide minimum liability insurance coverage of not less than three hundred thousand dollars (\$300,000) issued by an insurance company licensed to conduct business in the State of Ohio shall be provided. The policy or certificate shall provide notice of cancellation of insurance to the Village at least ten (10) days prior to cancellation.

(14) Short-term Rental Tax. Each Short-term Home rental shall charge the Short-Term Rental Tax on every rental and remit same to the Village in compliance with the requirements of Chapter 185 of the Village of Peninsula Codified Ordinances.

(15) Advertising. No person shall allow a dwelling to be listed or advertised as a short-term rental prior to obtaining a permit or if the permit has been revoked, suspended, or denied.

(16) Septic System. No Short-term Home rental shall be permitted unless a valid Septic System Operations Permit from Summit County Public Health is provided. The number of bedrooms certified on the certificate shall be limited to the number of bedrooms approved by Summit County Public Health on the valid Operations Permit.

(17) Record Keeping. All Short-term Home rental property owners shall retain, and upon request, make available to the Zoning Officer or law enforcement officials, records to demonstrate compliance with this section, including, but not limited to, primary residency, the name of the Short-term Home rental guest responsible for the reservation and/or who rented the unit on each night, dates of the rental, price per night, and duration of stay in a Short-term Home rental.

(b) Owner-occupied Short-term Rental Standards.
Owner-occupied Short-term rentals shall be permitted in any zoning district. All Owner-occupied Short-term Rentals shall comply with the following standards.

(1) Parking. Parking for guests shall be on the same lot as the dwelling. No on-street parking shall be permitted in association with the rental.

(2) Accessory buildings. If the rental unit is within an accessory building it shall provide bathroom facilities within that building.

(3) Safety Standards. The Owner shall provide an affidavit stating that the rental is in compliance with applicable local, state and federal laws and regulations.

(4) Capacity Limit. The maximum number of renters to be accommodated shall be equal to the number of bedrooms available for rent multiplied by a factor of 2.

A. The number of bedrooms shall be as certified by the applicant and verified by inspection of the Village and in no event shall exceed the number of bedrooms permitted by the Summit County Public Health Septic

System Operations Permit, minus the number of bedrooms occupied by the permanent residents.

B. The certificate issued by the Village shall indicate the maximum number of renters that may be accommodated as calculated under these standards.

(5) Certificate Number. The unique short-term rental certificate number issued by the Village shall be:

A. Included in any advertisement for the rental; and

B. Posted on the property.

(6) Insurance. A general liability insurance policy or certificate that shall provide minimum liability insurance coverage of not less than three hundred thousand dollars (\$300,000) issued by an insurance company licensed to conduct business in the State of Ohio shall be provided. The policy or certificate shall provide notice of cancellation of insurance to the Village at least ten (10) days prior to cancellation.

(7) Short-term Rental Tax. Each Owner-occupied Short-term rental shall charge the Short-Term Rental Tax on every rental and remit same to the Village in compliance with the requirements of Chapter 185 of the Village of Peninsula Codified Ordinances.

(8) Advertising. No person shall allow a dwelling to be listed or advertised as a short-term rental prior to obtaining a permit or if the permit has been revoked, suspended, or denied.

(9) Septic System. No Owner-occupied Short-term rental shall be permitted unless a valid Septic System Operations Permit from Summit County Public Health is provided. The number of bedrooms certified on the certificate shall be limited to less than the number of bedrooms approved by Summit County Public Health on the valid Operations Permit.

(10) Record Keeping. All Owner-occupied Short-term rental property owners shall retain, and upon request, make available to the Zoning Officer or law enforcement officials, records to demonstrate compliance with this section, including, but not limited to, primary residency, the name of the short-term rental guest responsible for the reservation and/or who rented the unit on each night, dates of the rental, price per night, and duration of stay in a short-term rental.

741.05 SPECIAL REQUIREMENTS IN THE R-2 "SMALL TOWN" RESIDENTIAL, COMMERCIAL, AND MIXED USE DISTRICTS FOR SHORT-TERM HOME RENTALS.

(a) Short-term Home rentals shall be permitted in the R-2 "Small Town" Residential District, the Commercial District, and the Mixed Use District provided the total number of short-term rentals within all of those districts combined does not exceed fifteen (15) units.

(b) Short-term Home rentals that show proof of being in existence as of the date of adoption of this chapter shall have sixty (60) days to obtain a short-term rental certificate, provided they are able to comply with the requirements of this chapter. After sixty (60) days

from the date of adoption of this chapter, the Village will accept applications for new Short-term Home Rentals.

741.06 SPECIAL REQUIREMENTS IN THE R-1 RURAL RESIDENTIAL DISTRICT FOR SHORT-TERM HOME RENTALS.

(a) Short-term Home rentals shall be permitted in the R-1 Rural Residential District, provided that the total number of Short-term Home rentals in that district does not exceed five (5) units.

(b) Short-term Home rentals shall not be located closer than six hundred (600) feet to another Short-term Home rental in this District measured by the closest property line from one parcel to the closest property line to the other parcel.

(c) Short-term Home rentals that show proof of being in existence as of the date of adoption of this chapter shall have sixty (60) days to obtain a short-term rental certificate, provided they are able to comply with the requirements of this chapter. After sixty (60) days from the date of adoption of this chapter, the Village will accept applications for new Short-term Home rentals.

741.07 SHORT-TERM RENTAL TAX.

(a) The Short-Term Rental Tax shall be 3% of the listing price, including any fees, for reservations 29 nights and shorter.

(b) The tax shall be collected and administered in conformance with Chapter 185 of the Village of Peninsula Codified Ordinances.

741.08 FEES.

(a) Each application for a Short-term Home Rental certificate shall be accompanied by a fee of \$150.

(b) Each application for an Owner-occupied Short-term Rental shall be accompanied by a fee of \$50.

741.09 VIOLATIONS, REVOCATION OF CERTIFICATE, AND PENALTY.

(a) Any of the following will be considered a violation of this chapter:

(1) Failure to update information with the Village such as the caretaker's or owner's contact information in a timely manner.

(2) Advertising either an Owner-occupied or Short-term Home rental for a capacity in excess of that allowed under the certificate issued by the Village.

(3) Permitting a number of persons in excess of that allowed under the certificate issued by the Village to stay at the premises.

(4) Failure of the certificate holder or his/her designated caretaker to be available at any time during the tenure of an active Short-term Home rental, or failure of a home owner to be present during the rental of an Owner-occupied Short-term rental.

(5) Providing false or misleading information on the application for any short-term rental certificate.

(6) Failure to obtain a short-term rental certificate when operating either an Owner-Occupied Short-term rental or a Short-term Home rental.

(7) Failure to comply with any of the standards listed in 741.04.

(b) Penalties.

(1) Any violation of this Ordinance shall be subject to the penalties specified in Section 1149.12 of the Zoning Code.

(2) In addition or as an alternative to the penalties set forth herein, when the Village becomes aware of a violation of this chapter, the Village may send a written notice to the property owner and/or caretaker of the property in violation that describes the location of the property, the nature of the violation, and the specific provisions of this chapter being violated, giving the owner and/or caretaker of the property no less than thirty (30) days to eliminate the violation before action is taken by the Village to cancel the Certificate. The thirty (30) day notice requirement shall not apply when the Village has previously cited the certificate holder for, or provided notice to the certificate holder of, the same type of violation within the past three hundred sixty-five (365) days.

CHAPTER 185

SHORT-TERM RENTAL TAX

185.01 INTENT OF TAX.

It is the intent of the Village to levy an excise tax of three percent (3%) on transactions by which lodging is or is to be furnished in a Short-Term Rental Dwelling to Transient Guests as referred to and authorized by RC 5739.02(C). Accordingly, this chapter shall be construed to effectuate that purpose and so as to be consistent with any requirement of law, compliance with which is a prerequisite to the validity of the tax intended to be levied hereby.

185.02 DEFINITIONS.

As used in this chapter:

- (a) "Administrator" means the individual charged with direct responsibility for administration of a tax levied by the Village of Peninsula in accordance with this chapter.
- (b) "Booking Agent" means any person or entity that facilitates reservations or collects payment for Short-Term Rental Dwelling accommodations on behalf of or for a Vendor. Merely publishing an advertisement for accommodations does not make the publisher a Booking Agent.
- (c) "Short-Term Rental Dwelling" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where lodging for less than thirty consecutive days is offered to guests in one (1) or more rooms, regardless of use of keyed entry, whether such rooms are in one (1) or several structures, and whether the rooms are located in different structures or on different parcels of land if the structures are not identified in advertisements of the accommodations as distinct establishments.
- (d) "Transaction Price" means the total amount of consideration, including money or any other value, paid, or to be paid, or given by, or on behalf of, a Transient Guest to a Short-Term Rental Dwelling Vendor or Booking Agent in exchange for lodging. The Transaction Price is the amount advertised or published to the public inclusive of any fees built into the advertised or published price; however, service fees or booking fees, if separately stated, shall not be included in the Transaction Price.
- (e) "Transient Guest" or "Transient Guests" means a person or persons occupying a room or rooms for lodging for less than thirty (30) consecutive days.
- (f) "Vendor" means the person who is the owner or operator of the Short-Term Rental Dwelling and who furnishes the lodging.

185.03 PURPOSE, RATE, AND APPLICATION OF TAX.

(a) There is hereby levied an excise tax of three percent (3%) on transactions by which lodging at a Short-Term Rental Dwelling is, or is to be, furnished to Transient Guests.

(b) The excise tax levied under this chapter shall provide revenue for the purposes of general municipal operations, procurement of fixed assets or permanent improvements, payment of debt charges, the elimination of deficits in Village funds, and for all other lawful purposes. To carry out such purposes, the receipts of the tax levied under this chapter shall be deposited to the credit of the General Fund.

(c) The tax, which shall be known as the short-term rental tax, applies and is collectible at the time the lodging is furnished, regardless of the time when the price is paid. The tax shall not apply to transactions by which lodging is furnished to:

(1) the Federal government, the State, or any of its political subdivisions; or

(2) a person maintaining occupancy for a period of thirty (30) or more consecutive days; provided, however, that except in the case of employees of the same employer, no occupancy may be used in combination with the occupancy of another, regardless of the source of payment, to exempt a transaction under this division.

(d) For the purpose of the proper administration of this chapter and to prevent the evasion of the tax, it shall be presumed that all lodging furnished at Short-Term Rental Dwellings in the Village to Transient Guests is subject to the tax until the contrary is established.

185.04 TRANSIENT GUEST TO PAY THE TAX.

(a) The short-term rental tax shall be paid by the Transient Guest to the Vendor unless division (b) of this section applies. Each Vendor shall collect from the Transient Guest the full and exact amount of the tax payable on the taxable price for each taxable lodging. The tax required to be collected under this chapter shall be deemed to be held in trust by the Vendor until paid to the Administrator as provided in Section 185.07 of this chapter. If, for any reason, the tax due is not paid to the Vendor, the Administrator may require the Transient Guest to pay such tax directly to the Administrator.

(b) A Booking Agent collecting for a Vendor may collect and remit the short-term rental tax in place of the Vendor, and in that instance, the Vendor shall not be responsible for collecting the short-term rental tax on any transaction for which the Vendor has received confirmation that the Booking Agent has collected and remitted the tax. If the Booking Agent collects the short-term rental tax, the requirements imposed on the Vendor set forth in section 185.04(a) shall be applicable to the Booking Agent.

185.05 RECORDS INSPECTION AND PRESERVATION.

Each Vendor and Booking Agent shall maintain complete and accurate records of lodging furnished, together with a record of the tax collected thereon. Such records shall be open and accessible to inspection by the Administrator within the Village within fifteen (15) days upon notification in writing to the Vendor or Booking Agent. Such records shall be preserved for a period of three (3) years, unless the Administrator in writing consents to their destruction within that period, or by order requires that they be kept for a longer period of time.

185.06 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The Vendor, or Booking Agent collecting for a Vendor, shall state and charge the short-term rental tax to the Transient Guest separately from the charge for the lodging and on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for occupancy issued or delivered by the Vendor or Booking Agent.

(b) No Vendor or Booking Agent shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the Vendor or Booking Agent, or that the tax will not be added to the amount charged for the lodging, or that, if added, any part will be refunded except in the manner provided in this chapter.

185.07 REGULATIONS FOR FILING RETURNS.

(a) Each Vendor, or Booking Agent collecting for a Vendor, shall on or before the last day of the quarter make and file a return for the preceding quarter, on forms prescribed by the Administrator, showing the receipts from furnishing lodging, the amount of tax due from the Vendor, or Booking Agent collecting for a Vendor, to the Village for the period covered by the return, and such other information as the Administrator deems necessary for the proper administration of this chapter. All returns shall be signed by the Vendor, its authorized agent, or Booking Agent collecting for a Vendor. Returns shall be filed by delivering or mailing the same to the Administrator together with payment of the full amount of tax shown to be due thereon.

(b) The Administrator may authorize Vendors, or Booking Agents collecting for Vendors, whose tax liabilities are not such as to merit quarterly returns as determined by the Administrator upon the basis of administrative costs of the Village, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) Each Vendor, or Booking Agent collecting for a Vendor, shall file all claims for exemption from tax filed by the Transient Guests with the Vendor during the reporting period with the return.

(d) The Administrator shall treat all returns and payments submitted by Vendors, and Booking Agents collecting for Vendors, as confidential and shall not release them except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State, the County, or the Village, for official use only, or except as required by law.

185.08 REFUNDS.

The Administrator shall refund or grant credits to Vendors, or Booking Agents collecting for Vendors, for the amount of tax paid illegally or erroneously or paid on any illegal or erroneous assessment where the Vendor or Booking Agent has not reimbursed itself from the Transient Guest. As between a Vendor and a Booking Agent, the request for refund shall be made by the party that filed the return containing the illegal or erroneous assessment. A Transient Guest may obtain a refund or credit for the amount of taxes paid illegally or erroneously, but only when the tax was paid by the Transient Guest directly to the Administrator. No refund shall be paid unless the claimant establishes a right thereto by written records showing entitlement thereto and makes a claim filed within three (3) years of the date of payment in the manner and on forms prescribed and furnished by the Administrator, and stating under penalty of perjury, the specific grounds upon which the claim is founded.

185.09 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION BY ADMINISTRATOR.

(a) If any Vendor fails or refuses to collect the short-term rental tax or to file a return or remit the tax or any portion thereof, as required by this chapter, and the Vendor has not received confirmation that a Booking Agent has collected and remitted the tax, the Administrator shall proceed in such manner as he or she may deem best to obtain information on which to base an assessment of the tax due. When the Administrator has obtained such information as he or she is able, he or she shall proceed to determine and assess against such Vendor the tax and penalty provided for in this chapter.

(b) In case such determination is made, the Administrator shall serve notice upon the Vendor of the amount so assessed, either by personal service, by registered or certified mail, or by a delivery service authorized under Section 5703.056 of the Ohio Revised Code, to the address provided to the Village by the Vendor, or if no such address is provided, to the property tax mailing address for the property on file with the County Fiscal Officer. If delivery is not made due to an undeliverable address or refusal of service, the assessment shall be sent by ordinary mail and be considered served. Such Vendor may, within thirty (30) days after the serving or mailing of such notice, apply in writing to the Administrator for a hearing on the correctness of the amount assessed. If the Vendor does not apply within the time prescribed, the tax and penalty determined by the Administrator shall become final and conclusive and due and payable. If the Vendor makes timely application, the Administrator shall give the Vendor written notice not less than five (5) days in advance in the manner prescribed in this section, to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax and penalty. At any such hearing, the Vendor may appear and offer evidence why such specified tax and penalty should not be so fixed.

(c) After such hearing, the Administrator shall determine the proper amount of tax due and shall thereafter give written notice to the Vendor, in the manner prescribed in this section, of such determination and the amount of such tax and penalty. The amount determined to be due shall be payable within fifteen (15) days from the date of the Administrator's determination.

185.10 APPEALS.

Appeals from any ruling or determination of the Administrator with respect to the amount of such tax and penalty shall be made to the Village Board of Tax Review in conformance with Section 181.21 of the Village's Codified Ordinances.

185.11 ACTIONS TO COLLECT.

Any tax required to be paid under the provisions of this chapter shall be deemed a debt owed by the Transient Guest to the Village. Any such tax not collected by a Vendor, or a Booking Agent collecting for a Vendor, pursuant to the provisions of this chapter, or any tax paid by a Transient Guest to a Vendor, or a Booking Agent collecting for a Vendor, not paid to the Village pursuant to the provisions of this chapter, shall be deemed a debt owed by the Vendor or Booking Agent to the Village. Any person owing money to the Village under the provisions of this chapter shall be liable to an action brought in the name of the Village for the recovery of such an amount and/or be subject to the penalties set forth in sections 185.12, 185.13, and 185.99 of this chapter.

185.12 INTEREST ON UNPAID TAX.

The tax imposed and collected or required to be collected under the provisions of this chapter remaining unpaid to the Village after the tax becomes due shall bear interest at the rate of the federal short-term interest rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term interest rate is determined under Section 1274 of the Internal Revenue Code.

185.121 BOOKING AGENTS.

(a) Any Booking Agent that facilitates transactions for one (1) or more Short-Term Rental Dwellings in the Village and does not collect or remit the tax on behalf of all the Vendors of such Short-Term Rental Dwellings shall provide to the Village, quarterly within thirty (30) days of the end of each calendar quarter, a transaction report. The transaction report shall consist of all listings by the Vendors during the preceding calendar quarter, including, but not limited to, the dates of occupancy for each lodging and the amount paid for each completed transaction.

(b) Any Booking Agent that lists one (1) or more Short-Term Rental Dwellings in the Village shall:

(1) at the time any Vendor first obtains a short-term rental certificate, notify the Vendor of the Vendor's tax and obligations to the Village; and

(2) annually provide all Vendors of one (1) or more Short-Term Rental Dwellings with a reminder of their tax and license obligations to the Village.

185.13 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 185.12 hereof, penalties based on the unpaid tax are hereby imposed as follows:

(a) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within thirty (30) days after the date required shall pay, in addition to the tax, a penalty equal to ten percent (10%) of the amount of the tax;

(b) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within sixty (60) days after the date required shall pay, in addition to the tax, a penalty equal to fifteen percent (15%) of the amount of the tax;

(c) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within ninety (90) days after the date required or upon a second delinquency shall pay, in addition to the tax, a penalty equal to twenty percent (20%) of the amount of the tax;

(d) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within one hundred twenty (120) days or more or upon a third or later delinquency shall pay, in addition to the tax, a penalty equal to twenty-five percent (25%) of the amount of the tax.

185.14 RULES AND REGULATIONS.

The Administrator shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection, and remittance of the short-term rental tax. A copy of such rules and regulations shall be published in the Village Record at least once before they shall become effective. Copies shall be printed and made available in the office of the Administrator.

185.99 PENALTY.

(a) Any Vendor or Booking Agent who fails to file any return or report required under this chapter or violates any other provision of this chapter shall be guilty of a misdemeanor of the first degree and be subject to a maximum fine of one thousand dollars (\$1,000.00) per occurrence or imprisonment of up to six months, or both. A separate offense shall be deemed to occur on the first day of each month that the offense continues.

(b) If not otherwise specified herein, no person or entity shall:

(1) Fail, neglect, or refuse to file any return or make any declaration required by this ordinance;

(2) File any incomplete or false return or provide any false information to the Administrator;

(3) Fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this ordinance; or

(4) Refuse to produce to the Tax Administrator, or permit the Tax Administrator or any duly authorized agent or employee to examine, the books, records, or papers relating to short-term rentals of the Vendor or Booking Agent.